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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,943	07/03/2003	Kerry McLellan	12620-7	5423
1059 7590 03/10/2008 BERESKIN AND PARR 40 KING STREET WEST BOX 401 TORONTO, ON M5H 3Y2 CANADA				
EXAMINER				
HAIDER, FAWAAD				
ART UNIT		PAPER NUMBER		
3627				
MAIL DATE		DELIVERY MODE		
03/10/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/611,943

**Applicant(s)**

MCLELLAN ET AL.

**Examiner**

FAWAAD HAIDER

**Art Unit**

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**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_\_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

***DETAILED ACTION***

***CONTINUED EXAMINATION***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's submission filed on 12/16/2007 has been entered.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3-5, and 7-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huxter (2002/0103724), in view of Myrick et al (2004/0133446) as supported by the Provisional Application 60/423,045.

Re Claim 1: Huxter discloses attempting a delivery at a primary location (see 109 in Figure 8, [0211]); if the delivery to the primary location fails, communicating a notification to the recipient of an upcoming delivery to a preferred redirection location (see 340 IN Figure 10A, [0017, 0189, 0203]); receiving a response to the notification from the recipient wherein the response

to the notification is adapted to change the preferred redirection location to an alternative redirection location (see 340 in Figure 10A), and delivering the parcel to the alternative redirection location (see 109 in Figure 8, Figure 40, [0249-0250]).

However, Huxter fails to disclose selecting the preferred redirection location prior to the delivery, and wherein the alternative redirection location is different from the primary location and the preferred redirection location. Myrick discloses selecting the preferred redirection location prior to the delivery (see Abstract, Figures 1-5), and also discloses alternate delivery locations, therefore more than one (see [0007, 0013, 0046]). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Huxter's invention with Myrick's use of selecting an alternate location prior to delivery, and multiple delivery locations in order to have "the convenience of an item shipped to a staffed delivery location instead of the home or business address of the customer for later retrieval by authorized parties (see [0002])."

Re Claim 3: Huxter discloses wherein the notification step comprises an email to the recipient (see 1207 in Figure 4 and [0123]).

Re Claim 4: Huxter discloses wherein the notification step comprises a SMS message to the recipient (see 1206 in Figure 4 and [0123]).

Re Claim 5: Huxter discloses comprising batching manual records of deliveries (see [0182]).

Re Claim 7: Huxter discloses wherein prior to step (a), the method further comprises registering with a delivery service (see Figure 8).

Re Claim 8: Huxter discloses wherein the registration step comprises providing the preferred redirection location to the delivery service (see Figure 8).

Re Claim 9: Huxter discloses wherein the registration step comprises providing the primary location to the delivery service (see Figure 8).

Re Claim 10: Huxter discloses wherein the registration step comprises generating an identifier unique to the recipient (see 101-106 in Figure 8).

Re Claim 11: Huxter discloses wherein the registration step comprises generating an identifier unique to the transaction (see 211 in Figure 9).

Re Claim 12: Huxter discloses wherein the primary location is a residential address of the recipient (see [0018]) and Figure 39).

### ***Response to Arguments***

4. Applicant's arguments filed 12/17/2007 have been fully considered but are moot in view of the new grounds of rejection.

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fawaad Haider whose telephone number is 571-272-7178. The examiner can normally be reached on Monday-Friday 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Ryan Zeender can be reached on 571-272-6790. The fax

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phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/F. Ryan Zeender/

Supervisory Patent Examiner, Art Unit 3627

Fawaad Haider

Examiner

Art Unit 3627

FIH

